

Senator Ann Millner proposes the following substitute bill:

PUBLIC ART FUNDING AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: _____

LONG TITLE

General Description:

This bill creates a state matching program for local installation of public art.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the purposes of the Utah Percent-for-Art Act;
- creates the Public Art Installation Initiative;
- authorizes the Division of Arts and Museums to offer a qualifying county of the first class, a municipality in a county of the first class, or a metro township in a county of the first class a dollar-for-dollar state match on local funding for the purchase or commission of a public art installation;
- authorizes the Division of Arts and Museums to make rules; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

9-6-402, as renumbered and amended by Laws of Utah 1992, Chapter 241

9-6-403, as last amended by Laws of Utah 1993, Chapter 4

9-6-404, as renumbered and amended by Laws of Utah 1992, Chapter 241

63A-5b-609, as last amended by Laws of Utah 2020, Chapter 261 and renumbered and amended by Laws of Utah 2020, Chapter 152

63I-2-209, as last amended by Laws of Utah 2023, Chapter 33

ENACTS:

9-6-410, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **9-6-402** is amended to read:

9-6-402. Purpose.

This part is designed to:

(1) establish a program which administers that portion of appropriations for capital expenditures which is set aside;

(a) for the acquisition of works of art used for public buildings; and

(b) to facilitate public art installations as described in Section **9-6-410**;

(2) enhance the quality of life in the state by placing art of the highest quality in public spaces where it is seen by the general public;

(3) promote and preserve appreciation for and exposure to the arts; and

(4) foster cultural development in the state and encourage the creativity and talents of its artists and craftspeople.

Section 2. Section **9-6-403** is amended to read:

9-6-403. Definitions.

As used in this part:

(1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the artist's peers as a professional who is committed to producing high quality work on a regular basis, and who is not the project architect or a member of the project's architectural firm.

(2) "Acquired or constructed" means acquired, constructed, reconstructed, restored,

enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part with state funds.

(3) "Contracting agency" means the state agency which is responsible for supervising the principal user of a state building or facility.

(4) "Public art installation" means a work of art:

(a) owned by a:

(i) county of the first class; or

(ii) municipality or metro township in a county of the first class;

(b) created by a Utah artist;

(c) located in a public place where the county of the first class, municipality in a county of the first class, or metro township in a county of the first class has jurisdiction; and

(d) that is intended to be a permanent fixture in the public place.

~~[(4)]~~ (5) "Principal user" means the department, board, commission, institution, or agency of the state for the principal use of which a state building or facility is acquired or constructed.

~~[(5)]~~ (6) (a) "Program" means the Percent-for-Art Program created in this part.

(b) "Program" does not mean the Public Art Installation Initiative created in Section 9-6-410.

~~[(6)]~~ (7) "Project" means the project whereby state buildings or facilities are acquired or constructed.

~~[(7)]~~ (8) (a) "State building or facility" means a state building, permanent structure, facility, park, or appurtenant structure thereof, wholly or partially enclosed, which includes, but is not restricted to a space or facility used or to be used for carrying out the functions of a department, board, commission, institution, or agency of the state, including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms, classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest areas.

(b) "State building or facility" does not include motor pools, heating plants, sheds, sewers, parking lots, bridges, highways, or buildings used solely for storage or warehousing.

(9) "Utah artist" means:

(a) an individual who produces paintings, drawings, photos, sculptures, or similar works; and

(b) who has:

(i) lived in Utah a minimum of ten years; or

(ii) a primary residence in the state.

[(8)] (10) "Work of art" or "works of art" means any form of original creation of visual art including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain, painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic, supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

Section 3. Section **9-6-404** is amended to read:

9-6-404. Creation of program -- Use of appropriations.

(1) A Percent-for-Art Program shall be administered by the division.

(2) (a) ~~[Any appropriation]~~ Eighty percent of the appropriations annually received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.

(b) Twenty percent of the appropriations annually received by or available to the director shall be used to support the Public Art Installation Initiative described in Section 9-6-410.

(c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Section 4. Section **9-6-410** is enacted to read:

9-6-410. Public art installation initiative.

(1) As used in this section:

(a) "Applicant" means:

(i) a county of the first class;

(ii) a municipality in a county of the first class; or

(iii) a metro township in a county of the first class.

(b) (i) "Local funds" means money in the possession of a county, municipality, or metro township through local revenue generation, private donation, or federal or philanthropic grant.

(ii) "Local funds" does not mean money from a state grant.

(2) There is created a Public Art Installation Initiative to be administered by the

division.

(3) Within available funds, the division may award an applicant a dollar-for-dollar match on the purchase or commission of a public art installation as described in this section.

(4) Before the division may offer a dollar-for-dollar match as described in Subsection (3), an applicant shall provide the division with:

(a) documentation of the local funds dedicated to the proposed public art installation;

(b) a description or rendering of the proposed public art installation;

(c) a copy of any contractual agreement the applicant has with the proposed artist, or a template contractual agreement to be offered to an artist; and

(d) any other information requested by the division.

(5) The division shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) an application process;

(b) a process to approve or deny an application, in accordance with the purposes described in Section 9-6-402; and

(c) a process to prioritize applications in the event of limited funding.

(6) The division:

(a) may solicit and receive a donation to further the objectives of this section; and

(b) shall deposit any donation received to further the objectives of this section and reserve the use of that donation for the Public Art Installation Initiative.

(7) A donation under Subsection (6) may not supplant appropriations for the Public Art Installation Initiative as described in Subsection 9-6-404(2)(b).

Section 5. Section 63A-5b-609 is amended to read:

63A-5b-609. Expenditure of appropriated funds supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.

(1) The director shall:

(a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated if more than one project is included in any

single appropriation without legislative directive;

(b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5b-503 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) [~~4-1/2~~] 4.5% to [~~6-1/2~~] 6.5% for new construction; and

(ii) 6% to [~~9-1/2~~] 9.5% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.

(3) (a) The director shall hold in a separate project reserve state appropriated funds accrued through bid savings and project residual.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5b-401; and

(ii) bid savings and project residual from a capital development project, as defined in Section 63A-5b-401.

(c) The director may use project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:

(i) approved under Section 63A-5b-405; and

(ii) for which funds are not allocated.

(d) The director may:

(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;

(ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and

(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.

(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:

(i) an expenditure under Subsection (3)(c); or

(ii) a transfer under Subsection (3)(d).

(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.

(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.

(5) (a) (i) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not

exceed:

(A) \$200,000[-], if the new state building or facility is not located in a county of the first class; and

(B) \$250,000, if the new state building or facility is located in a county of the first class.

(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.

(c) Funds from appropriations for a state building or facility may not be set aside:

(i) if any part of the funds is derived from the issuance of bonds; and

(ii) to the extent the set aside of funds would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds.

Section 6. Section **63I-2-209** is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Subsection 9-6-402(1)(b) is repealed January 1, 2035.

(2) Subsections 9-6-403(4) and (6)(b) are repealed January 1, 2035.

(3) Subsection 9-6-404(2)(a) is amended to read, "Any appropriation received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division." on January 1, 2035.

(4) Subsection 9-4-404(2)(b) is repealed January 1, 2035.

(5) Section 9-6-410 is repealed January 1, 2035.

(6) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

~~[(2)]~~ (7) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

~~[(3)]~~ (8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

~~[(4)]~~ (9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

~~[(5)]~~ (10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of

243 Building Communities Restricted Account Act, is repealed on July 1, 2024.

244 Section 7. **Effective date.**

245 This bill takes effect on May 1, 2024.